IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 13800 of 2005

Between:

K. Anjaneyulu, S/o Veeraswamy
FSP Dealer No. 254/NR.No. 923/B, Saibabanagar, Qutubullapur, Balanagar Circle, Ranga Reddy District.

..... PETITIONER

AND

The Joint Collector,Ranga Reddy District, Lakdikapool Hyderabad.

.....RESPONDENT

Note: The name of the petitioner's father and also the name of the respondent was amended as per the Court order dated 05-07-2005 in WPMP No.18227of 2005.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ order or direction more in the nature of Writ of Certiorari to call for the records of the respondent herein in 6-A case No. A7/554/04 dated 17-5-2005 and quash the same and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.V.H.V.R.R.SWAMY

Counsel for the Respondent : GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORAL ORDER

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The petitioner is a fair price shop dealer in respect of shop No.254 and also has a N.R. licence No.923/B. By the proceedings dated 17-05-2005, the respondent-Joint Collector while considering the proceedings against the petitioner under Section.6-A of the Essential Commodities Act,1955, directed initiation of action against the petitioner under Section.7 of the Act by registering an F.I.R in the concerned police station and also directed the Revenue Divisional Officer, R.R.East Division to initiate action to cancel the authorization and the Assistant Supply Officer, Circle No.1, Balanagar to cancel the N.R.Licence of the petitioner with immediate effect after following the procedure. On behalf of the petitioner, it is contended that the power of the respondent under Section.6-A of the Act is limited to consider whether the commodities ought to be seized and, therefore the orders directing initiation of action under Section.7 of the Act and to cancel the authorization and the N.R.Licence, are invalid and without jurisdiction. As respondent is the appellate authority, against any order of suspension or cancellation of authorization or N.R. Licence, it is inappropriate for the respondent to have directed initiation of action to cancel the authorization or NR Licence. The discretion and power conferred on the Revenue Divisional Officer or the Asst.Supply Officer concerned (to suspend or cancel) cannot be dictated to by the appellate authority. The primary authorities are required to decide whether the facts and circumstances warrant the cancellation of authorization or N.R.Licence, uninfluenced by the dictates of the appellate authority. In so far as directing the registering of a complaint against the petitioner under Section 7 of the Act, the respondent being a departmental superior was entitled to come to a *prima facie* conclusion that a complaint should be filed, as the investigation of such complaint is not in the hands of the Revenue Divisional Officer or Asst.Supply Officer or in the hands of the respondent as an appellate authority.

For the aforesaid reasons the writ petition is allowed to this extent. The directions in the impugned order to the Revenue Divisional Officer and Assistant Supply Officer to initiate action to cancel the authorization and N.R.Licence of the petitioner are set aside. The remaining part of the order being vitiated by no error is upheld.

The writ petition is allowed to the above extent. No order as to costs.

GODA RAGHURAM,J

5TH JULY 2005

Note:

Issue CC in

One week.

(B/O)

*TSNR

To

1. The Joint Collector, Ranga Reddy District, Hyderabad.
2. Two CCs to G.P for Civil Supplies, High Court Buildings, Hyderabad(OUT)
3. Two C.D.Copies.